

UNITED STATES DISTRICT COURT, of electrical energy, or of
Southern District of New York. and arranged for the alleged

method or system of transmission of electrical energy, re-
:
NIKOLA TESLA COMPANY, of complaint, : or described or claimed
:
in the Letters Patent Plaintiff, 576 or 549,521, annexed to
:
said bill of complaint, and, upon information : In Equity 12/240
:
vs. : For alleged inter-
:
MARCONI WIRELESS TELEGRAPH method or : apparatus was not known
COMPANY OF AMERICA, :
or used by others in this country, and : was not patented or
Defendant. :
described in any printed publication : in this or any foreign

country before the alleged invention or discovery thereof
by said Nikola Tesla. TO THE HONORABLE THE JUDGES OF THE UNIT-
ED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF NEW YORK.

The defendant, Marconi Wireless Telegraph Company
of America, appearing by its solicitors, Sheffield & Betts,
therefor.

answers the complaint, as follows:

1. It is without knowledge as to whether the plaintiff
Nikola Tesla, being the inventor of said system, apparatus
is a corporation organized and existing under and by virtue
of the laws of the State of New York and as to whether it
has its principal place of business in the City and County
of New York, in said State.

2. It admits that it is a corporation of the State
of New Jersey, with an office in that State, and has a
regular and established place of business in the Borough
of Manhattan, City, County and State of New York.

3. Upon information and belief, it denies that
Nikola Tesla, mentioned in the bill of complaint, was at any
time the original or first inventor of the alleged new or
they duly or lawfully secured to said Nikola Tesla, or his

useful system of transmission of electrical energy, or of heirs or assigns, the full or exclusive or any right of apparatus employed or constructed or arranged for the alleged making, using or vending the alleged inventions thereof method or system of transmission of electrical energy, re- throughout the United States or the territories thereof, ferred to in said bill of complaint, or described or claimed or for the term of seventeen years from the respective in the Letters Patent Nos. 645,576 or 649,621, annexed to dates of said Letters Patent.

said bill of complaint, and, upon information and belief,

6. It is without knowledge as to whether the said it denies that said system, method or apparatus was not known Nikola Tesla, at any time, or in any manner, transferred or used by others in this country, and was not patented or or set over to the plaintiff all or any right, title or described in any printed publication in this or any foreign interest in or to either of said Letters Patent Nos.

country before the alleged invention or discovery thereof 645,576 and 649,621, or the alleged inventions thereof,

by said Nikola Tesla, and, upon information and belief, it or that the plaintiff became or now is the sole or ex- denies that said system, method or apparatus was not in pub- clusive owner of either of said Letters Patent, or of the

lic use or on sale for more than two years prior to said alleged inventions or improvements described or claimed Nikola Tesla's alleged applications for Letters Patent therein, or to any of the rights alleged to be secured therefor.

thereby; and upon information and belief it denies that

4. Upon information and belief, it denies that said the plaintiff is entitled to be protected in the enjoy- Nikola Tesla, being the inventor of said system, apparatus ment of any of said alleged rights.

or improvement, as alleged in said bill of complaint, made

7. It denies that it has, at any time or place, application for Letters Patent to the Commissioner of Patents, or in any manner, or in violation of any rights of the in accordance with the existing laws of the United States, or plaintiff, infringed upon either of said Letters Patent complied in all respects with the conditions and requirements Nos. 645,576 and 649,621, or used the alleged inventions of said laws.

of either of said Letters Patent in any way whatsoever,

5. Upon information and belief, it admits that Let- and denies that it has done any act or thing or made any ters Patent Nos. 645,576 and 649,621 were issued on March claims, or is doing any act or thing or making any claims, 20, 1900 and May 15, 1900, respectively, to Nikola Tesla; which have worked or which work to the injury of the but, upon information and belief, it denies that either of plaintiff.

said Letters Patent were duly or lawfully issued, or that

8. It admits that on the 10th day of November, they duly or lawfully secured to said Nikola Tesla, or his 1900, Guglielmo Marconi, of London, England, made appli-

heirs or assigns, the full or exclusive or any right of making, using or vending the alleged inventions thereof throughout the United States or the territories thereof, or for the term of seventeen years from the respective dates of said Letters Patent.

6. It is without knowledge as to whether the said Nikola Tesla, at any time, or in any manner, transferred or set over to the plaintiff all or any right, title or interest in or to either of said Letters Patent Nos. 645,576 and 649,621, or the alleged inventions thereof, or that the plaintiff became or now is the sole or exclusive owner of either of said Letters Patent, or of the alleged inventions or improvements described or claimed therein, or to any of the rights alleged to be secured thereby; and upon information and belief it denies that the plaintiff is entitled to be protected in the enjoyment of any of said alleged rights.

7. It denies that it has, at any time or place, or in any manner, or in violation of any rights of the plaintiff, infringed upon either of said Letters Patent Nos. 645,576 and 649,621, or used the alleged inventions of either of said Letters Patent in any way whatsoever, and denies that it has done any act or thing or made any claims, or is doing any act or thing or making any claims, which have worked or which work to the injury of the plaintiff.

8. It admits that on the 10th day of November, 1900, Guglielmo Marconi, of London, England, made appli-

cation to the Commissioner of Patents for Letters Patent of the United States for patent for improvements in systems and apparatus for wireless telegraphy, and admits that on June 28, 1904, Letters Patent of the United States 763,772 referred to in and annexed to said bill of complaint, were issued to said Guglielmo Marconi, assignor to Marconi's Wireless Telegraph Company, Limited, of London, England, on the aforesaid application, and this defendant alleges, on information and belief, that the inventions and improvements described and claimed in said Letters Patent No. 763,772 were made prior to November 10, 1900, that the defendant is the sole and exclusive owner of said Letters Patent No. 763,772, and the said inventions and improvements thereof, and that it has been the sole and exclusive owner thereof since the 16th day of March, 1905, and that since said date the defendant has claimed and now claims the right to use the said inventions and improvements of said Letters Patent No. 763,772.

9. It denies that the said Letters Patent No. 763,772 describes the alleged inventions and combinations of apparatus alleged to be described and claimed in the said Letters Patent Nos. 645,576 or 649,621, issued to said Nikola Tesla, and alleges that no material or substantial part of the inventions and improvements described and claimed in said Letters Patent No. 763,772 are the same or substantially similar to any material or substantial part of the alleged inventions of either of said Letters Patent Nos. 645,576 or 649,621, and that neither said Letters Patent No. 763,772 or any of the claims thereof interfere or are substantially identical

with either of said Letters Patent Nos. 645,576 or 649,621, or any of the claims of either of said Letters Patent.

10. Upon information and belief it alleges that while the alleged applications for said Letters Patent Nos. 645,576 and 649,621 were pending in the Patent Office the said Nikola Tesla disclaimed the principle and system upon which the inventions and improvements of said Letters Patent No. 763,772 are based, and therefore the plaintiff is now estopped from asserting or claiming that those inventions and improvements are described or claimed in either of the said Letters Patent Nos. 645,576 and 649,621.

11. It alleges that the validity of the inventions and improvements of said Letters Patent No. 763,772, and particularly those claimed in claims 1, 2, 3, 6, 8, 10, 11, 12, 13, 14, 16, 17, 18, 19 and 20 were sustained after full hearing upon the merits by the United States Circuit Court for the Eastern District of New York in a suit by the defendant against the National Electric Signaling Company, in which suit it was also determined that the said Letters Patent No. 645,576 and 649,621 and the alleged inventions thereof did not anticipate and were not the same as the aforesaid inventions and improvements of said Letters Patent No. 763,772.

12. It alleges that the system, method and apparatus used by the defendant, and which is also alleged herein to be an infringement of each of said Letters Patent Nos. 649,621 and 645,576 is and has been used by

the defendant under said Letters Patent No. 763,772, owned by the defendant; that said system, method and apparatus has been in open, public and continuous use by the defendant and its licensees ever since the year 1901, without any right or license from the plaintiff or said Nikola Tesla, and that such use has been well known to the plaintiff and said Nikola Tesla since that year, and that the ownership by the defendant of said Letters Patent No. 763,772, and its claim of right to use the inventions thereof, has been well known to the plaintiff and said Nikola Tesla since March 1905, but neither the plaintiff nor said Nikola Tesla has ever molested the defendant or its licensees in said use, or asserted any of the alleged rights now claimed herein in either of said Letters Patent Nos. 645,576 and 649,621 as against said use by the defendant or its licensees, or claimed that said Letters Patent No. 763,772 interfered with said Letters Patent Nos. 645,576 or 649,621, or brought any suit against the defendant or its licensees for the enforcement of its alleged rights under either of said Letters Patent Nos. 645,576 or 649,621, or any suit to cancel said Letters Patent No. 763,772; that the defendant began and continued the said use and acquired the ownership of said Letters Patent No. 763,762 in good faith, and it and its licensees have invested vast sums of money therein and thereunder, and built up a large and profitable business therein, and without any knowledge that the plaintiff, or said Nikola Tesla, claimed or intended to claim that the said use infringed upon either of said

Letters Patent Nos. 645,576 or 649,621, or that said Letters Patent No. 763,772 interfered with either of said Letters Patent Nos. 645,576 and 649,621, and in the belief that each of said Letters Patent Nos. 645,576 and 649,621 was worthless, and that the alleged rights now claimed thereunder had been abandoned by the plaintiff and said Nikola Tesla, wherefore the plaintiff and said Nikola Tesla have been guilty of laches and are estopped from maintaining this suit and asserting any ~~rights~~ alleged rights in either of said Letters Patent as against the defendant or its licensees, and has, in fact, abandoned both of said Letters Patent Nos. 645,576 and 649,621, and is not entitled to any relief herein.

13. It alleges that the said bill of complaint does not set forth or state sufficient facts to show that the said Letters Patent No. 763,772 interferes with either of said Letters Patent Nos. 645,576 and 649,621, or state sufficient facts to constitute a cause of action under Section 4918 of the Revised Statutes of the United States or any statute, or sufficient facts to entitle the plaintiff to any of the relief prayed for in said bill of complaint.

14. It denies that the plaintiff is entitled to any answer from the defendant herein, or to have the said Letters Patent No. 763,772 declared or adjudged null or void, or is entitled to any relief herein.

Smith	247,127, Sept. 13, 1881
Thomson	500,630, July 4, 1893
Tesla	558,176, Sept. 22, 1896
Tesla	568,177, Sept. 22, 1896
Tesla	5-7-178, Sept. 22, 1896
Tesla	568,179, Sept. 22, 1896
Marcconi	586,193, July 13, 1897.

15. It alleges that the pretended inventions or discoveries of each of said Letters Patent, Nos. 649,621 and 645,576 are not useful and have never been put into actual and practical use, are inoperative, impracticable, unpatentable and worthless.

16. Upon information and belief, it alleges that for the purpose of deceiving the public, the description and specification filed in the Patent Office by Nikola Tesla, the patentee of said Letters Patent Nos. 645,576 and 649,621 were made to contain less than the whole truth relative to the respective alleged inventions or discoveries of said Letters Patent.

17. Upon information and belief, it alleges that the pretended inventions or discoveries of each of said Letters Patent Nos. 645,576 and 649,621, if they are patentable, had been patented or described prior to the supposed inventions or discoveries thereof by said Nikola Tesla in the following Letters Patent and publications, and in other patents and publications which are now unknown to the defendant, but which when known the defendant asks leave to insert herein by amendment.

UNITED STATES LETTERS PATENT.

Smith	No. 247,127, Sept. 13, 1881
Dolbear	350,299, Oct. 5, 1886
Thomson	361,168,
Tesla	454,622, June 23, 1891
Tesla	462,418, Nov. 3, 1891
Edison	462,971, Dec. 29, 1891
Thomson	500,630, July 4, 1893
Tesla	568,176, Sept. 22, 1896
Tesla	568,177, Sept. 22, 1896
Tesla	568,178, Sept. 22, 1896
Tesla	568,179, Sept. 22, 1896
Marconi	586,193, July 13, 1897.

BRITISH LETTERS PATENT.

Tesla	No. 8,575 of 1891
Lodge	11,575 " 1897
Marconi	12,039 " 1896

PUBLICATIONS.

Crookes, Fortnightly Review, Feb. 28, 1892, pages 173-181, Vol. 51, N. S. No. 302, N. S. Leonard Scott Publication Company, 231 Broadway, New York.

Journal Franklin Institute, February, 1893.

Proceedings National Electric Light Association, March, 1893, Light and Other High Frequency Phenomena, pages 191-302.

New York Herald, April 23, 1893.

Scientific American Supplement, May 20, 1893, pp. 14,492-3; Article entitled Nikola Tesla and his Discoveries.

Hertz Electrical Waves, Translated by D. E. Jones, MacMillan & Co., London, Eng., 1893.

Journal of the Society of Arts, London, Feb. 23, 1894, Article by Preece.

Proceedings Royal Institute of Great Britain, June 1, 1894, Lecture by Lodge.

Century Magazine, April, 1895, Article entitled Tesla's Oscillator, etc., pp. 916-933.

Popoff, Journal Russian Physics- Chemical Society, Vol. 28, 1896, Division of Physics, "Apparatus for the Detection and Registration of Electric Vibrations".

Elec. World, N. Y., Vol. 32, Nov. 5, 1898, page 466.

Book entitled "Inventions, Researches and Writings of Nikola Tesla", by Martin, New York, 1904.

18. Upon information and belief, it alleges that the said Nikola Tesla was not the original or first inventor of any material or substantial part of the alleged inventions or discoveries of either of said Letters Pat-

ent Nos. 645,576 and 649,621, but that all material and substantial parts of each of said Letters Patent, if they involve any patentable invention or discovery, had been, prior to the supposed invention or discovery thereof by said Nikola Tesla, invented or discovered by, and known to the following named persons, whose last known residence is set opposite their names, respectively, and by others whose names and residences are at present unknown to the defendant, but which when known the defendant asks leave to insert herein by amendment, viz.:

G. Marconi, of London, England.

Thomas A. Edison, of Menlo Park, N. J.

Elihu Thomson, of Swampscott, Mass.

E. Dolbear, of Somerville, Mass., and

William W. Smith, of Indianapolis, Indiana.

19. Upon information and belief, it alleges that the pretended inventions or discoveries of each of said Letters Patent Nos. 645,576 and 649,621, prior to the supposed invention or discovery thereof by the said Nikola Tesla, or more than two years before his alleged application for said Letters Patent, if they are capable of any use, had been in public use in this country by the following named persons and corporations, at the places set opposite their names, respectively, and whose last known place of residence is set opposite their respective names, and by others who are now unknown to the defendant, but which when known the defendant asks leave to insert herein by amendment, viz.:

Thomas A. Edison, of Menlo Park, N. J., at Menlo

Park, N. J., and elsewhere within the United States.

Elihu Thomson, of Swampscott, Mass., at Swampscott, Mass., and elsewhere within the United States.

E. Dolbear, of Somerville, Mass., at Somerville, Mass., and elsewhere within the United States.

William W. Smith, of Indianapolis, Ind., at Indianapolis, Ind., and elsewhere within the United States.

Ezra T. Gilliland, of and at Indianapolis, Ind.

Dolbear Electric Telephone Company, of and at the State of New Jersey.

Thomson-Houston Electric Co., of and at Lynn, Mass., and elsewhere within the United States;

General Electric Company, of and at Schenectady, N. Y., and elsewhere within the United States.

15. Upon information and belief, it alleges that in view of the state of the prior art set up herein, and in other prior patents and publications, the alleged system, method or apparatus described and claimed in each of said Letters Patent Nos. 645,576 and 649,621 involves no patentable invention or discovery.

Wherefore this defendant humbly prays that a decree be entered herein

1. Dismissing said bill with costs and disbursements to the defendant.

2. Declaring said Letters Patent Nos. 645,576 and 649,621 null and void; or

3. For such other relief to the defendant as to the

Court may seem just in the premises.

MARCONI WIRELESS TELEGRAPH COMPANY
OF AMERICA,

By

A. C. Ottomuly

Shepherd & Otto

Solicitors for the defendant,

52 William Street,

Borough of Manhattan,

New York City.

Vice President

A. C. Ottomuly

Of Counsel for Defendant.

Sworn to before me this

day of May, 1915.

Harold Jones
Notary Public.

New York County.

STATE OF NEW YORK,)
: ss.:
COUNTY OF NEW YORK)

JOHN BOTTOMLEY, being duly sworn, deposes
and says that he is ^{one of} the *Vice Presidents* of the
Marconi Wireless Telegraph Company of America, Defendant
herein; that he has read the foregoing answer and knows
the contents thereof, and that the same is true of his
own knowledge, except as to matters therein stated to
be alleged upon information and belief, and as to those
matters he believes it to be true; that the reason why
this verification is not made by the Defendant personally
is because said Defendant is a corporation.

John Bottomley

Sworn to before me this *24th*
day of May, 1915.

Walter Jones

Notary Public,
New York County.



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Equity No. 12/240.

NIKOLA TESLA COMPANY,
Plaintiff,

vs.

MARCONI WIRELESS TELEGRAPH
COMPANY OF AMERICA,
Defendant.

DEFENDANT'S ANSWER

A.
10. d
SHEFFIELD & BETTS,
Defendant's Solicitors,

No. 52 WILLIAM STREET,

Borough of Manhattan,

New York City.

